



**U.S. Customs and  
Border Protection**

Commissioner

**MAY 19 2015**

The Honorable Jeff Sessions  
Chairman  
Subcommittee on Immigration & the National Interest  
United States Senate  
Washington, DC 20510

Dear Chairman Sessions:

This is in response to your February 19, 2015 letter requesting U.S. Customs and Border Protection (CBP) information, specifically statistics on apprehensions and deportations. The enclosed spreadsheets and tables provide detailed statistical border security data, as extracted from internal CBP systems, concerning apprehensions and admissions at and in between our Nation's ports of entry, as well as information on assaults on CBP law enforcement personnel.

Please note that this information draws from a number of different systems, designed and built over the years with various internal purposes in mind, in some cases originating with legacy components of CBP, and thus the data captured, and the constructs under which each system captures these data, may not always reflect internal consistency. Further note that much of the information contained in these spreadsheets is marked For Official Use Only / Law Enforcement Sensitive. CBP data is sensitive in nature due to CBP's primary law enforcement mission. As such, revealing detailed levels of data poses a threat to law enforcement personnel safety and security operations through perceived vulnerabilities that could be exploited by transnational criminal organizations, and could also lead to conflicts of interest with our international partners and stakeholders. Accordingly, we respectfully ask that appropriate measures be taken to safeguard this information.

To facilitate your review of CBP's response, we have listed each individual item included in your February 19, 2015, letter separately, and have identified the specific exhibits that provide responsive information to each item. In addition, I would like to offer a briefing for your respective staff members to review the data, discuss the sensitivities of the data and answer any questions they may have.

**1. Apprehensions and Disposition**

In response to item 1 of your letter, we enclose Exhibits 1, 2, and 3 generated by the U.S. Border Patrol (USBP) and which show:

- USBP Nationwide Apprehensions by Disposition, FY 2000-FY 2015 (Exhibit 1)
- USBP Nationwide Apprehensions by Citizenship, FY 2000-FY 2015 (Exhibit 2)
- USBP Nationwide Apprehensions by Country of Birth, FY 2000-FY 2015 (Exhibit 3)

We also enclose Exhibit 4, a consolidated spreadsheet prepared by the CBP Office of Field Operations (OFO) showing:

- OFO Apprehensions of Inadmissible Aliens Data, FY 2005-FY 2014

The OFO spreadsheet provides apprehensions data, including citizenship, country of birth, and disposition action from FY 2005 forward when the data merger between Legacy Customs and Legacy Immigration systems occurred. CBP respectfully suggests that Committee Members or staff contact U.S. Immigration and Customs Enforcement (ICE) for any available statistical information on individuals turned over to ICE or another agency.

## **2. Border Crossing Volume**

In response to item 2 of your letter, we also enclose Exhibit 5, a spreadsheet containing:

- OFO Border Crossing Volume, FY 2005-FY 2014

This spreadsheet provides the total volume (number) of individuals crossing the U.S. border at ports of entry by mode of travel (land, sea, air) from FY2005 through FY2014. The spreadsheet also specifies the number of travelers that were U.S. citizens (USC), legal permanent residents (LPR), and the number of travelers that were admitted into the United States with a non-immigrant visa (NIV).

Lines 17 through 19 of Exhibit 5 show the total volumes of Canadian, Border Crossing Card (BCC) and Visa Waiver Program (VWP) travelers that were admitted into the United States for FY 2005 through FY 2014.

## **3. Secondary Referrals**

In response to item 3 of your letter, we enclose Exhibits 6 and 7. These spreadsheets show the number of travelers that were referred to secondary inspection between FY 2005 and FY 2014. These Exhibits also provide citizenship, reason for referral, and disposition information concerning such travelers. Because the detail data contains almost 190,000 lines, we are also providing the summary information. It is critical to note that secondary inspections are not adverse actions. An inspection is one act whether that act occurs in primary, secondary, deferred inspection, or referral to a judge. It is only considered adverse once a charge or similar action is taken.

As indicated above, Exhibits 6 and 7 show:

- OFO Secondary Referral and Disposition Detail Data, FY 2005-FY 2014 (Exhibit 6)
- OFO Secondary Referral and Disposition Summary Data, FY 2005-FY 2014 (Exhibit 7)

#### **4. Border Crossing Card (BCC) Entries**

Included in Exhibit 8, specific to the Southwest border, is the distinct count of all I-94s issued to Mexican citizens as well as the number of entries using a Border Crossing Card (BCC) between FY 2005 and FY 2014.

Beginning in FY 2008, the counts show a marked increase in the number of BCCs used for entry. This coincides with the Western Hemisphere Travel Initiative (WHTI), a joint Department of State (DOS) and Department of Homeland Security (DHS) plan to implement a key 9/11 Commission recommendation and the statutory mandates of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA). IRTPA, in part, required the DHS and DOS to develop and implement a plan to require all travelers, U.S. citizens and foreign nationals alike, to present a passport or other acceptable document that denotes identity and citizenship when entering the United States. On October 1, 2008, DOS began the issuance of the second generation of the BCC to include a radio frequency identification (RFID) chip and Integrated Contactless Circuit. The use of RFID-enabled travel documents helps speed processing at the border by providing CBP officers at land border ports with passenger and law enforcement information in advance of the traveler's arrival at the vehicle inspection booth. The technology also automates law enforcement checks to facilitate the processing of legitimate travelers while focusing attention on higher-risk individuals. This results in reduced processing time and a more secure process. Prior to the implementation of WHTI, name queries in vehicle primary were 5 percent and by 2010 increased to over 95 percent.

#### **5. High-Risk Travelers**

As part of our layered security approach CBP has implemented a pre-departure strategy to vet advance traveler information with the goal of identifying and mitigating risks as early as possible in the travel continuum. CBP works in close partnership with the counterterrorism community, including law enforcement agencies, the intelligence community, U.S. Immigration and Customs Enforcement (ICE), the Transportation Security Administration (TSA), the Department of State (DOS), state and local law enforcement, the private sector, and our foreign counterparts.

In concert with its partners, CBP applies its capabilities at multiple points in the travel cycle to increase security by receiving advance information, employing sophisticated targeting systems to detect risk, and acting through a global network to address risks or prevent the movement of identified threats toward the United States at the earliest possible point in their travel.

In the pre-departure environment, CBP vets advance passenger data on all inbound and outbound international flights prior to boarding and makes recommendations to commercial airlines to prevent passengers who may pose a security threat, have fraudulent documents, or are otherwise inadmissible, from boarding flights to the United States.

CBP is enclosing Exhibits 9, 10, and 11, which show the number of high-risk travelers that were prevented from boarding flights to the United States during FY2013. These spreadsheets can be divided in three categories:

- Travelers Prevented from Boarding by Country of Citizenship, FY 2013 (Exhibit 9)
- Travelers Prevented from Boarding by Departure Location, FY 2013 (Exhibit 10)
- Travelers Prevented from Boarding by Visa Status, FY 2013 (Exhibit 11)

With regard to statistics of high-risk travelers allowed to board and found inadmissible or found admissible, there are no consolidated means of calculating such statistics due to various factors. As described above, CBP continually assesses risk at every stage along the travel continuum according to information available at each stage. While some information, such as lack of an appropriate visa, would clearly render the traveler inadmissible upon arrival in the U.S., and CBP can recommend the carrier not board the traveler, other information may require additional inspection by a CBP Officer at a port of entry to determine admissibility. All aliens seeking admission to the U.S. must be inspected by a CBP Officer pursuant to the Immigration and Nationality Act § 235. In order for an alien to be admitted into the United States, an officer must determine that the more than 60 grounds of inadmissibility enumerated in section § 212(a) of the INA do not apply to that individual.

Additionally, U.S. immigration law provides the Secretary of DHS various discretionary authorities to allow inadmissible aliens to enter the U.S. under other means for humanitarian, law enforcement, and public interest reasons. Below details two such mechanisms:

- Section § 212(d)(5)(A) of the INA authorizes DHS to parole, on a case-by-case basis, for urgent humanitarian reasons or significant public benefit, an otherwise inadmissible alien. The Law Enforcement Parole Branch of U.S. Immigration and Customs Enforcement (ICE) has the authority to grant a parole into the United States for specific significant public benefit purposes. A traveler who is the subject of an ICE parole generally would be allowed to board a flight to the United States. ICE would have visibility on the full scope of these paroles and would be the appropriate entity to generate statistics on how many paroles were issued by citizenship and/or visa status.
- Section § 212(d)(3)(A) of the INA authorizes DHS to waive certain grounds of inadmissibility. With the creation of DHS, the adjudication of inadmissibility waivers for immigrants was delegated to U.S. Citizenship and Immigration Services; adjudication of inadmissibility waivers for nonimmigrants was delegated to CBP under the Admissibility Review Office (ARO). ARO can issue waivers of inadmissibility, which allow otherwise inadmissible persons to travel and be admitted.

CBP also adjudicates nonimmigrant waiver recommendations originating with the Department of State (DOS) when the inadmissible nonimmigrant requires an NIV to travel. Both statute and regulation distinguish the DOS waiver recommendation as part of the visa application process and CBP respectfully suggests that Committee Members or staff contact DOS to provide information on the volume of visas issued by DOS where a waiver was required.

Regarding the third part of your request related to high-risk travelers found admissible and permitted to board flights to the U.S., per the Terrorist Screening Database (TSDB) FY 2013 Year-In-Review report from CBP's Office of Intelligence (OI), 2,577 U.S. citizens and 732 Lawful Permanent Residents (LPR) were identified as positive TSDB matches and were admitted into the United States, across all modes of travel. Immigration enforcement options under the INA are of course more limited with respect to returning U.S. citizens and LPRs.

#### **6. Visa Waiver Program (VWP) and the Electronic System for Travel Authorization (ESTA)**

In response to item 6 of your letter, CBP is enclosing Exhibits 12, 13, and 14. These three spreadsheets show:

- OFO ESTA Applications, Approvals and Denials, FY 2008-FY 2015 (Exhibit 12)
- OFO Admitted with Denied ESTA, FY 2010-FY 2015 (Exhibit 13)
- OFO Admitted without Approved ESTA, FY 2010-FY 2015 (Exhibit 14)

ESTA is an enforcement tool that allows CBP to vet potential applicants for admission against information that would not otherwise be available on an application for admission under the Visa Waiver Program. Denial of an ESTA application does not necessarily imply a ground of inadmissibility. However, it does prevent a traveler from boarding an aircraft until the traveler applies for and is issued a nonimmigrant visa by a U.S. Consulate abroad. The ESTA requirement became mandatory for VWP travelers after January 12, 2009. CBP does not track the number of individuals who apply for a visa after having been denied an ESTA. All applicants for admission are fully inspected by CBP Officers upon arrival at an open port of entry.

#### **7. Nationwide Marine Apprehensions**

CBP's Office of Air and Marine (OAM) is primarily a "turn-over-to" (TOT) law enforcement entity, which means that OAM agents immediately turn over arrested subjects directly to other agencies<sup>3</sup> for further investigation and processing. As such, OAM does not track the specifics of individuals apprehended, such as countries of citizenship or the final disposition of apprehensions.

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<sup>3</sup> Depending on the circumstances related to the arrest, the subject could be turned over to a federal, state, or local law enforcement agency.

OAM's nationwide marine apprehensions by fiscal year during 2005-2014 are included in the chart below:

<b>Fiscal Year</b>	<b>Apprehensions</b>	<b>Arrests</b>	<b>Total</b>
2005	359	254	613
2006	572	160	732
2007	360	206	566
2008	453	217	670
2009	622	201	823
2010	780	407	1187
2011	499	445	944
2012	908	767	1675
2013	340	787	1127
2014	313	1435	1748
2015*	190	696	886

\* FY 2015 figures as of February 28, 2015.

The USBP also apprehends individuals in the marine environments, but does not break out apprehensions in the marine environment from other nationwide apprehensions as included in Exhibits 18 and 19 below.

#### **8. Inadmissibility Based on Criminal Charges and/or Prior Deportations**

In response to item 8 of your letter, we enclose Exhibits 15, 16, and 17. As requested, OFO provided three data sets that provide the number of individuals found to be inadmissible at ports of entry on the grounds of criminal charges and/or prior deportations:

- OFO Inadmissible Aliens with Criminal Charge Grounds, FY 2005-FY 2015 (Exhibit 15)
- OFO Inadmissible Aliens with a Prior Deportation Indicator, FY 2005-FY 2015 (Exhibit 16)
- OFO Inadmissible Aliens with a Prior Deportation Indication and Criminal Charge Grounds, FY 2005-FY 2015 (Exhibit 17)

An individual's underlying criminal conviction is not a data element that is currently captured in CBP's processing system.

## 9. Apprehensions and Recidivism Rates

In response to item 9 of your letter, we enclose Exhibits 18 and 19. The two enclosed exhibits show:

- USBP Nationwide CDS Trackable Apprehensions and Recidivism Rates, FY 2011-FY 2015 (Exhibit 18)
- USBP Nationwide Apprehensions and Recidivism Rates, FY 2000-FY 2015 (Exhibit 19)

USBP is not able to provide ten fiscal years of recidivism rates according to the Consequence Delivery System (CDS) because CDS was developed by USBP in 2010 and was implemented initially in the Tucson Sector in January 2011. While we can provide FY 2011 data, since the CDS program was not active along the entire U.S. southern border, or in use uniformly for the entire year, it is difficult to measure application or outcome of CDS as a program during that time period. The program was implemented nationwide for the first time in FY 2012.

Some apprehended individuals do not receive an (b) (7)(E) such as minors and the very elderly, and some apprehended individuals, such as those with an extradition warrant, do not result in the use of a Border Patrol consequence application. In these instances, it is not possible for CDS to keep metrics on the outcome of that apprehension. Therefore, only apprehensions which receive a FIN, and also result in a Border Patrol application of consequence are "CDS Trackable Apprehensions."

## 10. Assaults on Agents

In response to item 10 of your letter, we enclose Exhibits 20 and 21. Exhibit 20 contains information on assaults against Border Patrol agents during FY 2006-FY 2015. Exhibit 21 is a spreadsheet showing the number of assaults on OAM officers and agents during FY 2008-FY 2015. In addition, the table below shows the number of assaults on CBP officers tracked at ports of entry.

Assaults on CBP Officers at Ports of Entry	
FY 2009	113
FY 2010	127
FY 2011	119
FY 2012	167
FY 2013	150

FY 2014	116
FY 2015**	16**

\*\* FY 2015 figures as of February 28, 2015

USBP did not begin to collect and retain data on assaults on agents until FY 2006, and OFO and OAM are not able to provide this data before FY 2008. However, USBP, OFO and OAM are in the process of transitioning to CBP's new "Assaults and Use of Force Reporting System" to capture all assaults and related data. None of CBP's operational components are able to provide data on the disposition or prosecution data on cases regarding assaults on CBP law enforcement personnel. We respectfully suggest that the Committee request data concerning disposition or prosecution of assaults on CBP law enforcement personnel from the Department of Justice.

CBP is available to discuss, explain, and provide additional clarification on the information provided herein. If we may be of further assistance to the Committee, please contact Michael Yeager, Assistant Commissioner, Office of Congressional Affairs, at (202) 344-1760. An identical response has been sent to the other Chairmen who co-signed your letter.

Respectfully,

(b) (6), (b) (7)(C)

R. Gil Kerlikowske  
Commissioner

Enclosures



(b) (6), (b) (7)(C)

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